S.B.CIVIL MISC. APPEAL NO.1788/2006.
RSRTC Vs. Mohd. Shafi & Ors.

Date of order ::: 01.12.2006

HON'BLE MR.JUSTICE DINESH MAHESHWARI

Mr. V.K.Mathur with
Mr. S.P. Joshi, for the appellant.

...

The appellant-RSRTC seeks to challenge the award dated 27.07.2005 made by the Motor Accidents Claims Tribunal, Udaipur, Headquarter Salumbar in Claim Case No.44/2005 whereby the Tribunal has awarded an amount of R.25,000/- to the respondent No.1 towards compensation for injuries sustained in motor accident involving bus bearing registration No.RJ 09-P-0797 plying on contract with the appellant-Corporation.

The claimant-Mohammed Shafi and his daugher Hurra Bano had boarded the aforesaid bus on 29.11.1998 at Kherwara Bus Stand and, according to the claimant, while driving the bus rashly and negligently, the driver of the bus hit against an oncoming truck near Darshana Ghati and claimant and his daughter sustained several injuries. The claimant-Mohammed Shafi and his daughter Hurra Bano submitted separate claim applications seeking compensation for the loss suffered by them on account of the injuries sustained in the accident; and the learned Tribunal after consolidating the trial

had decided both the claim applications by the impugned common award dated 27.07.2005.

After finding the accident to have occurred for rash and negligent driving of the bus driver, so far claimant-Mohammed Shafi is concerned, learned Judge of the Tribunal examined his injury report Ex.8 showing three injuries and the medical officer having reserved the opinion in relation to injuries Nos.1 and 2. However, in absence of further medical report or opinion, the learned Judge did not accept the injuries to be grievous nor accepted the certificate Ex.9 on the allegation of 10% permanent disablement. Learned Judge also found that the bills relating to medical treatment and transportation have not been produced. In the aforesaid view of the matter, learned Judge awarded a lump sum of Rs.25,000/- as just compensation with 6% per annum interest from the date of filing of the claim application. A submission was made on behalf of the appellant-Corporation that vehicle in question being on contract with it, according to the condition of contract, the liability for compensation arising out of the motor accident is of the bus owner. The learned Judge rejected this contention with reference to the fact that bus in question was being plied in control and directions of the Corporation.

Assailing the award aforesaid, it has been sought to be contended by the appellant-Corporation that as per the agreement with the owner of the bus, the duty to indemnify the compensation claim is of the owner and not of the appellant-Corporation and the Tribunal has erred in making an award against the Corporation. Quantum of compensation has also been sought to be assailed being highly excessive for the simple injuries shown on the person of the claimant.

On the matter being taken up for admission, learned counsel for the appellant fairly submitted that S.B. Civil Misc. Appeal No. 714/2006 : RSRTC Vs. Ms. Hurra & Ors. filed by the appellant Corporation against the same award dated 27.07.2005 in relation to the Claim Case No.43/2005 has already been dismissed by this Court on 03.07.2006 and the said order would obviously govern the fate of this appeal too.

In the said CMA No.714/2006 with reference to the decisions of the Division Bench of this Court in D.B. Civil Special Appeal No.150/2003: RSRTC & Anr. Vs. Naseer Khan & Ors. and so also in D.B. Civil Special Appeal No.45/2003: RSRTC Vs. Smt. Asha Solanki & Ors. and Single Bench decision in S.B. Civil Misc. Appeal No.317/1996 RSRTC Vs. Smt. Shakuntala Priya, this Court has rejected the contention made on behalf of the appellant Corporation for exoneration.

Obviously, the appellant Corporation cannot be absolved of its liability to satisfy the claim for compensation in the present case too.

So far the quantum of compensation is concerned, in the overall circumstances of the case, award made by the Tribunal of a meagre amount of Rs.25,000/- towards compensation to the injured claimant cannot be said to be highly excessive so as to warrant any interference in appeal at the instance of the appellant-Corporation.

Following the order dated 03.07.2006 made in S.B. Civil Misc. Appeal No.714/2006 (RSRTC Vs. Ms. Hurra & Ors.), the present appeal is also dismissed summarily.

(DINESH MAHESHWARI), J.

Mohan